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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 9th February, 1976/*Magha* 20, 1897 (*Saka*)

The following Act of Parliament received the assent of the President on the 9th February, 1976, and is hereby published for general information:—

THE DELHI RENT CONTROL (AMENDMENT) ACT, 1976

No. 18 OF 1976

[*9th February,* 1976]

An Act further to amend the Delhi Rent Control Act, 1958.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Delhi Rent Control (Amendment) Act, 1976.

(*2*) It shall be deemed to have come into force on the 1st day of December, 1975.

CHAPTER II

AMENDMENT OF THE DEFINITION OF "TENANT" AND PROVISIONS CONSEQUENTIAL TO SUCH AMENDMENT

Amendment of section 2.

59 of 1958.

2. In section 2 of the Delhi Rent Control Act, 1958 (hereinafter referred to as the principal Act), for clause (*l*), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

'(*l*) "tenant" means any person by whom or on whose account or behalf the rent of any premises is, or, but for a special contract, would be, payable, and includes—

(*i*) a sub-tenant;

(*ii*) any person continuing in possession after the termination of his tenancy; and

(*iii*) in the event of the death of the person continuing in possession after the termination of his tenancy, subject to the order of succession and conditions specified, respectively, in *Explanation I* and *Explanation II* to this clause, such of the aforesaid person's—

(*a*) spouse,

(*b*) son or daughter, or, where there are both son and daughter, both of them,

(*c*) parents,

(*d*) daughter-in-law, being the widow of his pre-deceased son,

as had been ordinarily living in the premises with such person as a member or members of his family up to the date of his death, but does not include,—

(*A*) any person against whom an order or decree for eviction has been made, except where such decree or order for eviction is liable to be re-opened under the proviso to section 3 of the Delhi Rent Control (Amendment) Act, 1976;

(*B*) any person to whom a licence, as defined by section 52 of the Indian Easements Act, 1882, has been granted. 5 of 1882.

Explanation I.—The order of succession in the event of the death of the person continuing in possession after the termination of his tenancy shall be as follows:—

(*a*) firstly, his surviving spouse;

(*b*) secondly, his son or daughter, or both, if there is no surviving spouse, or if the surviving spouse did not ordinarily live with the deceased person as a member of his family up to the date of his death;

(*c*) thirdly, his parents, if there is no surviving spouse, son or daughter of the deceased person, or if such surviving spouse, son or daughter or any of them, did not ordinarily live in the premises as a member of the family of the deceased person up to the date of his death; and

(*d*) fourthly, his daughter-in-law, being the widow of his pre-deceased son, if there is no surviving spouse, son, daughter or parents of the deceased person, or if such surviving spouse, son, daughter or parents, or any of them, did not ordinarily live in the premises as a member of the family of the deceased person up to the date of his death.

Explanation II.—If the person, who acquires, by succession, the right to continue in possession after the termination of the tenancy, was not financially dependent on the deceased person on the date of his death, such successor shall acquire such right for a limited period of one year; and, on the expiry of that period, or on his death, whichever is earlier, the right of such successor to continue in possession after the termination of the tenancy shall become extinguished.

Explanation III.—For the removal of doubts, it is hereby declared that,—

(*a*) where, by reason of *Explanation II*, the right of any successor to continue in possession after the termination of the tenancy becomes extinguished, such extinguishment shall not affect the right of any other successor of the same category to continue in possession after the termination of the tenancy; but if there is no other successor of the same category, the right to continue in possession after the termination of the tenancy shall not, on such extinguishment, pass on to any other successor specified in any lower category or categories, as the case may be;

(*b*) the right of every successor, referred to in *Explanation I*, to continue in possession after the termination of the tenancy, shall be personal to him and shall not, on the death of such successor, devolve on any of his heirs.'.

Saving.

3. Nothing contained in the principal Act, as amended by this Act, shall be deemed to authorise the re-opening of any proceeding for—

(*a*) the fixation of standard rent in relation to any premises to which the principal Act applies; or

(*b*) the eviction of any person from any premises to which the principal Act applies; and

(*c*) any other matter which the Controller is empowered, by or under the principal Act, to decide,

if such proceeding had been finally disposed of before the commencement of this Act:

Provided that if, in relation to any proceeding which had been finally disposed of before the commencement of this Act, the Controller is satisfied that the landlord had not recovered possession of the premises in relation to which the decree or order for eviction of the person in possession thereof was made, he shall, if such person by a written application made within ninety days from such commencement so desires, set aside such decree or order and re-open the proceeding for such eviction and decide such proceeding in accordance with the provisions of the principal Act as amended by this Act.

Applications for execution of the decree or order for eviction to stand stayed.

4. Every application for the execution of any decree or order for the eviction of any person from any premises referred to in section 3, which was not finally disposed of before the commencement of this Act, shall stand stayed for a period of ninety days from such commencement, or, where any application is made for the re-opening of the proceeding in which such decree or order for eviction was made, until the final disposal of such application, whichever is later.

Explanation—For the purposes of sections 3 and 4, an application or proceeding, as the case may be, shall not be deemed to have been finally disposed of, if, in relation to that application or proceeding, any appeal or second appeal is pending, or, if the period of limitation for preferring an appeal or second appeal, as the case may be, had not expired before the commencement of this Act.

CHAPTER III

RIGHT OF LANDLORD TO RECOVER IMMEDIATE POSSESSION IN CERTAIN CASES

Insertion of new section 14A.

5. After section 14 of the principal Act, the following section shall be inserted, namely:—

Right to recover immediate possession of premises to accrue to certain persons.

"14A. (*1*) Where a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government or any local authority is required, by, or in pursuance of, any general or special order made by that Government or authority, to vacate such residential accommodation, or in default, to incur certain obligations, on the ground that he owns, in the Union territory of Delhi, a residential accommodation either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately possession of any premises let out by him:

Provided that nothing in this section shall be construed as conferring a right on a landlord owning, in the Union territory of Delhi, two or more dwelling houses, whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.

(*2*) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary, where the landlord exercises the right of recovery conferred on him by sub-section (*1*), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received.—

(*a*) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of possession of the premises by him, refund to the tenant such amount as represents the rent payable for the unexpired portion of the contract, agreement or lease;

(*b*) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount so received, as the unexpired portion of the contract or agreement, or lease bears to the total period of contract or agreement or lease:

Provided further that, if any default is made in making any refund as aforesaid, the landlord shall be liable to pay simple interest at the rate of six per cent. per annum on the amount which he has omitted or failed to refund.".

CHAPTER IV

INSERTION OF NEW CHAPTER IIIA

Insertion of new Chapter IIIA.

6. After section 25 of the principal Act, the following Chapter shall be inserted, namely:—

'CHAPTER IIIA

SUMMARY TRIAL OF CERTAIN APPLICATIONS

Provisions of this Chapter to have over-riding effect.

25A. The provisions of this Chapter or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law for the time being in force.

Special procedure for the disposal of applications for eviction on the ground of *bona fide* requirement.

25B. (*1*) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (*e*) of the proviso to sub-section (*1*) of section 14, or under section 14A, shall be dealt with in accordance with the procedure specified in this section.

(*2*) The Controller shall issue summons, in relation to every application referred to in sub-section (*1*), in the form specified in the Third Schedule.

(*3*) (*a*) The Controller shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post, acknowledgment due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(*b*) When an acknowledgment purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article, the Controller may declare that there has been a valid service of summons.

(*4*) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in the Third Schedule shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided; and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable.

(7) Notwithstanding anything contained in sub-section (2) of section 37, the Controller shall, while holding an inquiry in a proceeding to which this Chapter applies, follow the practice and procedure of a Court of Small Causes, including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court on revision, the Controller may exercise the powers of review in accordance with the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908. 5 of 1908.

(10) Save as otherwise provided in this Chapter, the procedure for the disposal of an application for eviction on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A, shall be the same as the procedure for the disposal of applications by Controllers.

Act to have effect in a modified form in relation to certain persons.

25C. (1) Nothing contained in sub-section (6) of section 14 shall apply to a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government or any local authority is required by, or in pursuance of, an order made by that Government or authority to vacate such residential accommodation, or, in default, to incur certain obligations, on the ground that he owns a residential accommodation either in his own name or in the name of his wife or dependent child in the Union territory of Delhi.

(2) In the case of a landlord who, being a person of the category specified in sub-section (1), has obtained, on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or under section 14A, an order for the eviction of a tenant from any premises, the provisions of sub-section (7) of section 14 shall have effect as if for the words "six months", occurring therein, the words "two months" were substituted.'.

Insertion of Third Schedule.

7. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely:—

"THE THIRD SCHEDULE

[*See section* 25B(2)]

FORM OF SUMMONS IN A CASE WHERE RECOVERY OF POSSESSION OF PREMISES IS PRAYED FOR ON THE GROUND OF *bona fide* REQUIREMENT OR UNDER SECTION 14A.

To

[Name, description and place of residence of the tenant.]

WHEREAS Shri.....has filed an application (a copy of which is annexed) for your eviction from (here insert the particulars of the premises) on the ground specified in clause (e) of the proviso to sub-section (*1*) of section 14, or under section 14A;

You are hereby summoned to appear before the Controller within fifteen days of the service hereof and to obtain the leave of the Controller to contest the application for eviction on the ground aforesaid; in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of section 25B.

Given under my hand and seal.

This day of 19 .

Controller.".

Repeal and saving.

24 of 1975.

8. (*1*) The Delhi Rent Control (Amendment) Ordinance, 1975 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act.

K. K. SUNDARAM,
Secy. to the Govt. of India.

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